

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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THE BERKSHIRE GAS COMPANY  
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D.T.E. 01-41

**SECOND MOTION FOR EXTENSION OF  
CONFIDENTIAL TREATMENT OF THE BERKSHIRE GAS COMPANY**

The Berkshire Gas Company ("Berkshire" or "Company") hereby requests that the Department of Telecommunications and Energy ("Department") extend its grant of confidential treatment of certain contractual provisions and evidentiary matters contained in the final decision issued June 29, 2001 in the above-captioned proceeding. In support of its Motion, the Company states the following:

1. The Company is a gas company organized under the laws of the Commonwealth of Massachusetts and engaged in the business of selling and distributing gas at retail in Massachusetts.
2. The Company is represented by James M. Avery, Esquire, of Brown Rudnick Berlack Israels LLP, One Financial Center, Boston, Massachusetts 02111.
3. On April 9, 2001, the Company filed a Gas Portfolio Optimization Agreement between BP Energy Company ("BP Energy") dated as of March 30, 2001 (the "Portfolio Agreement") and a Gas Sales and Purchase Agreement (the "Purchase Agreement") between the Company and BP Energy also dated as of March 30, 2001. In an Order dated June 29, 2001 in this proceeding (the "Order"), the Department approved these agreements finding that the Portfolio Agreement was "consistent with the public interest" and that the Purchase Agreement was "consistent with the Company's resource portfolio objectives." See, Order p.12.
4. In the Order, the Department granted the Company's Motion for Confidential Treatment relating to certain confidential, competitively sensitive or other proprietary information provided in the course of the proceedings conducted in order to review the Portfolio Agreement and the Purchase Agreement. See Order, pp.17-18. The Department noted that, consistent with the requirements of G. L. c. 25, §5D, the Department was allowing for protected treatment for the requested materials for a period of one year from the date of the Department's Order. Id.

5. On April 5, 2002, the Company filed a second and slightly revised form of Gas Portfolio Optimization Agreement and Gas Sales and Purchase Agreement (collectively, the "2002 Agreements") for review and approval of the Department in docket D.T.E. 02-19. The 2002 Agreements were also executed with BP Energy after two separate competitive solicitations and covered a term beginning on April 1, 2002 and terminating March 31, 2004. As noted in the Company's initial filing in docket D.T.E. 02-19, the 2002 Agreements were similar in form, structure and pricing provisions to the agreements approved in docket D.T.E. 01-41. At a public hearing on May 24, 2002, the Hearing Officer in docket D.T.E. 02-19 granted the Company's Motion for Confidential Treatment of certain portions of the 2002 Agreements and related responses to information requests of the Department and the Attorney General of the Commonwealth for a period of one year from the date of such decision. The Company recognized that it may be appropriate and necessary for the Company to seek an extension of the Department's ruling in D.T.E. 01-41 during the term of the 2002 Agreements. Accordingly, a Motion for Extension of Confidential Treatment of The Berkshire Gas Company dated June 3, 2002 was submitted seeking the extension of the original order of protection in D.T.E. 01-41 for, at the least, the term of the 2002 Agreements.
6. Berkshire and BP Energy recently executed a third and revised version of the Gas Portfolio Optimization Agreement and Gas Sales and Purchase Agreement for a term commencing on April 1, 2003 and terminating on March 31, 2007 (the "2004 Agreements"). The 2004 Agreements were submitted for Department review pursuant to a letter dated April 27, 2004. The 2004 Agreements are similar in form, structure and pricing provisions to the agreements approved in dockets D.T.E. 01-41 and D.T.E. 02-19. Further, the Company has requested that the Department grant protected treatment for the 2004 Agreements for at least a period of three years, i.e., the term of the 2004 Agreements. Given the substantial similarity of the agreements, it is necessary and appropriate for the protected treatment granted in docket D.T.E. 01-41 to extend for, at a minimum, a similar period. Accordingly, for all the reasons also stated in the Company's original motion for confidentiality, the Company respectfully requests that the Department extend the confidential and protected treatment accorded to certain provisions of the agreements approved in docket D.T.E. 01-41 and certain other evidence submitted in that proceeding, for a period equal to the term of the 2004 Agreements with respect to any confidential materials contained in the 2004 Agreements or any relevant materials submitted to the Department in connection therewith.

WHEREFORE, the Company respectfully requests that the Department grant its Second Motion for Extension of Confidential Treatment and, further, that the Department grant such other relief as it may deem necessary or appropriate.

Respectfully submitted,

THE BERKSHIRE GAS COMPANY

By its attorneys,

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James M. Avery, Esq. (BBO#542672)  
Brown Rudnick Berlack Israels LLP  
One Financial Center  
Boston, MA 02111  
617/856-8200

Dated: April 27, 2004